

## **Assembly Bill No. 2353**

### **CHAPTER 983**

An act to add Section 3053.2 to the Penal Code, relating to domestic violence.

[Approved by Governor September 27, 1996. Filed  
with Secretary of State September 27, 1996.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2353, Alpert. Domestic violence: parole conditions.

Existing law authorizes the Board of Prison Terms to establish and enforce rules and regulations under which prisoners committed to state prisons may be allowed to go upon parole and provides that, upon granting parole to a prisoner, the board may impose on the parole any conditions that it deems proper.

This bill would authorize the parole authority to impose specified conditions on the parole of a person released from prison for a domestic violence offense, including participation in or successful completion of a batterer's program, and, upon request of the victim, the issuance of protective orders. The bill would require the parole agent or officer to conduct an assessment of the parolee and would authorize the agent or officer to require the parolee to participate in additional sessions of the program under certain conditions. Because the bill would impose additional duties on local law enforcement officials, the bill would create a state-mandated local program.

The bill would also require the Department of Corrections to submit specified reports to the Legislature in the implementation of this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares the following:

(a) Providing the maximum protection possible for victims of domestic violence and their families is of the highest priority.

(b) Domestic violence is a serious and widespread crime.

(c) Domestic violence has long-term effects that are disastrous for social policy and threatens the stability of the family and negatively impacts all family members, especially children who may erroneously learn that violence is an acceptable way to cope with stress or problems.

(d) Those convicted of domestic violence offenses can benefit from participation in a structured batterer's program.

SEC. 2. Section 3053.2 is added to the Penal Code, to read:

3053.2. (a) Upon the request of the victim, or the victim's parent or legal guardian if the victim is a minor, the parole authority shall impose the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

Compliance with a protective order enjoining the parolee from threatening, stalking, sexually abusing, harassing, or taking further violent acts against the victim and, if appropriate, compliance with any or all of the following:

(1) An order prohibiting the parolee from having personal, telephonic, electronic, media, or written contact with the victim.

(2) An order prohibiting the parolee from coming within at least 100 yards of the victim or the victim's residence or workplace.

(3) An order excluding the parolee from the victim's residence.

(b) The parole authority may impose the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

For persons who committed the offense prior to January 1, 1997, participation in a batterer's program, as specified in this section, for the entire period of parole. For persons who committed the offense after January 1, 1997, successful completion of a batterer's program, which shall be a condition of release from parole. If no batterer's program is available, another appropriate counseling program designated by the parole agent or officer, for a period of not less than one year, with weekly sessions of a minimum of two hours of classroom time. The program director shall give periodic progress reports to the parole agent or officer at least every three months.

(c) The parole agent or officer shall refer the parolee only to a batterer's program that follows the standards outlined in Section 1203.097 and immediately following sections.

(d) The parolee shall file proof of enrollment in a batterer's program with the parole agent or officer within 30 days after the first meeting with his or her parole agent or officer, if he or she committed

the offense after January 1, 1997, or within 30 days of receiving notice of this parole condition, if he or she committed the offense prior to January 1, 1997.

(e) The parole agent or officer shall conduct an initial assessment of the parolee, which information shall be provided to the batterer's program. The assessment shall include, but not be limited to, all of the following:

- (1) Social, economic, and family background.
- (2) Education.
- (3) Vocational achievements.
- (4) Criminal history, prior incidents of violence, and arrest reports.
- (5) Medical history.
- (6) Substance abuse history.
- (7) Consultation with the probation officer.
- (8) Verbal consultation with the victim, only if the victim desires to participate.

(f) Upon request of the victim, the victim shall be notified of the release of the parolee and the parolee's location and parole agent or officer. If the victim requests notification, he or she shall also be informed that attendance in any program does not guarantee that an abuser will not be violent.

(g) The parole agent or officer shall advise the parolee that the failure to enroll in a specified program, as directed, may be considered a parole violation that would result in possible further incarceration.

(h) The director of the batterer's program shall immediately report any violation of the terms of the protective order issued pursuant to paragraph (3) of subdivision (a), including any new acts of violence or failure to comply with the program requirements, to the parolee's parole agent or officer.

(i) Upon recommendation of the director of the batterer's program, a parole agent or officer may require a parolee to participate in additional sessions throughout the parole period, unless he or she finds that it is not in the interests of justice to do so. In deciding whether the parolee would benefit from more sessions, the parole agent or officer shall consider whether any of the following conditions exist:

- (1) The parolee has been violence-free for a minimum of six months.
- (2) The parolee has cooperated and participated in the batterer's program.
- (3) The parolee demonstrates an understanding of, and practices, positive conflict resolution skills.
- (4) The parolee blames, degrades, or has committed acts that dehumanize the victim or puts the victim's safety at risk, including,



but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(5) The parolee demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(6) The parolee has made threats to harm another person in any manner.

(7) The parolee demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(j) The Department of Corrections, with collaboration as appropriate from the Board of Prison Terms, shall (1) submit a report to the Legislature on or before February 1, 1998, on the implementation of this section which shall include, but not be limited to, the crimes used to identify parolees subject to this section, the method of notifying victims that compliance with a protective order may be made a condition of parole, efforts made to ensure that victims inform the parole authority of the request for, or issuance of, those orders and that a request for conditioning parole may be submitted, problems encountered in implementing this section, and progress made in that implementation, and (2) submit a report to the Legislature on or before July 1, 1999, which shall include, but not be limited to, the subjects discussed in the first report required by this section, the identification of the number of parolees eligible for such programs and protective orders which may be made a condition of parole; number of parolees required to participate in batterers programs; space available by county and number of spaces filled in such programs; the number of parolees who recidivate during the parole period or who do not complete the programs; and the criteria used to determine which parolees have been required to complete the programs or who have had parole conditioned on compliance with a protective order.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

